



IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re Patent Application of

MATHIEU et al

Atty. Ref.: 2590-108; Confirmation No. 5402

Appl. No. 10/519,492

TC/A.U. 3734

Filed: June 16, 2005

Examiner: Eric D. Blatt

For: IMPLANT INSERTING DEVICE

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Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

DECLARATION UNDER RULE 131

We, Christian Mathieu, Frédéric Heimgartner and Kamel Besseghir, declare as follows:

1. We are the named inventors of the above-identified US patent application filed on June 16, 2005, which is the U.S. National Phase of International Application PCT/CH2003/000437, filed July 2, 2003, which designated the U.S. and claims benefit of PCT/CH02/00360, filed July 3, 2002, the entire contents of which are incorporated in the subject U.S. Patent Application, as reflected in the Preliminary Amendment filed on December 30, 2004. In this regard, attached is a copy of the USPTO Notice of Acceptance of Application under 35 U.S.C. 371 and 37 C.F.R. 1.495, which notes at the

bottom that the priority documents for this case were filed on December 30, 2004, and have been received by the USPTO (Attached as Exhibit 1).

2. The invention claimed in our U.S. patent application was conceived by us in Switzerland prior to the October 16, 2002 filing date of U.S. Patent No. 7,041,048 B2 (Drobnik et al). This is confirmed by Exhibit 2 attached to this Declaration, which is a copy of our PCT/CH02/00360 patent application that was filed on July 3, 2002, and which is the priority document for our U.S. patent application. Attached as Exhibit 3 is an English translation of Exhibit 2.

3. As confirmed by Exhibits 2 and 3, we not only conceived our invention prior to the October 16, 2002 filing date of Drobnik, but we also reduced it to practice by filing our patent application on July 3, 2002.

4. As shown by a comparison of Exhibits 2 and 3 with the subject U.S. application, it includes all of the same text that fully supports the claims now pending in the U.S. application. In this regard, no Section 112 rejection has been lodged against the claims in the subject U.S. application which includes the same specification as Exhibits 2 and 3.

5. We do not know and do not believe that the invention disclosed and claimed in our U.S. patent application has been in public use or on sale in the United States or patented or described in a printed publication in the United States or any foreign country for more than one year prior to our priority application filing date of July 3, 2002,

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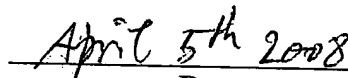
and that we have never abandoned the invention described and claimed in our U.S. patent application.

All statements made herein of our own knowledge are true and all statements made on information and belief are believed to be true; and further that these statements were made with the knowledge that willful false statements and the like so made are punishable by fine or imprisonment, or both, under Section 1001 of Title 18 of the United States Code and that such willful false statements may jeopardize the validity of the application or any patent issuing thereon.

Christian Mathieu


Frédéric Heimgartner

Date


Date

Kamel Besseghir

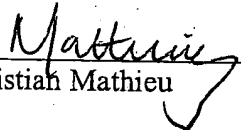
Date

Attached: Exhibits 1-3

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and that we have never abandoned the invention described and claimed in our U.S. patent application.

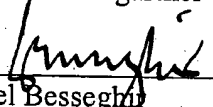
All statements made herein of our own knowledge are true and all statements made on information and belief are believed to be true; and further that these statements were made with the knowledge that willful false statements and the like so made are punishable by fine or imprisonment, or both, under Section 1001 of Title 18 of the United States Code and that such willful false statements may jeopardize the validity of the application or any patent issuing thereon.



Christian Mathieu

le 05/04/08

Date

Frédéric Heimgartner


Kamel Besseghien

Date
11 April 2008

Date

Attached: Exhibits 1-3
